FIU

FLORIDA INTERNATIONAL UNIVERSITY

OFFICE OF INTERNAL AUDIT

Review of Four Grants at the Request of the Department of Energy and National Science Foundation Inspectors General

Report No. 08/09-10

August 20, 2009

FLORIDA INTERNATIONAL UNIVERSITY

OFFICE OF INTERNAL AUDIT

DATE: August 20, 2009

TO: Cristina Mendoza, Vice President and General Counsel

FROM: Allen Vann, Audit Director

SUBJECT: **Review of Four Grants at the Request of the Department of Energy and National Science Foundation Inspectors General Report No. 08/09-10**

EXECUTIVE SUMMARY

At the requests of the U. S. Department of Energy Office of Inspector General (DOE) and the National Science Foundation Office of Inspector General (NSF), we conducted a review of two DOE awards: DE-FG26-00NT40806, "Hemispheric Center for Energy and Technology;" and DE-FG02-99ER41065, "Electroproduction of Strange Particles, subsequently amended to "Nuclear Physics Research at Jefferson Lab;" and two NSF awards: CNS-0123950, "A Semantic Caching Service for Wireless Network Centric Environments;" and PHY-0312038, "An inter-Regional Grid-Enabled Center for Research and Educational Outreach at FIU." Our review period covered the fiscal years (FY) 1998-99 through FY 2008-09. The objectives of the review were to determine whether FIU billed the DOE and the NSF for sick and annual terminal leave payouts properly.

Our review disclosed that the University billed $33,781 in terminal leave payouts to one of the DOE grant awards at the same time that it was applying a "Personal Assessment Fee" (PAF/Fee) to that award. After the University discontinued using the PAF the same DOE grant was direct-charged for all, or part, of the terminal leave payouts of six or possibly seven employees when the grant had previously been billed an estimated $11,253 in PAF charges associated with the salaries of the same employees. We identified no issues concerning the NSF grant awards.

We wish to express our appreciation for the cooperation and assistance extended to us by the staff of the Administrative Software Unit, Applied Research Center, Controller's Office, Human Resources, and OSRA, and others contacted during the review.

BACKGROUND

During the period under review, the University's practice was to post on a cash basis actual employee salaries and wages and fringe benefit costs to all University accounts, including the project accounts for the four grant awards under review. (In the case of DE-FG26-00NT40806, the charges were first posted to a payroll clearing account, which would then be distributed to the respective project accounts worked by the employee).

Compensation paid to employees during periods of authorized absences, such as sick and annual leave was included in the claimed salaries and wages. Fringe benefit costs, which included the University's actual contributions for social security taxes, and, when applicable, Medicare taxes, retirement pension, health and life insurance, pre-tax administrative account (cafeteria plan) costs and unemployment compensation insurance were also direct-charged to the respective project accounts on an on-going basis.

The University also provided certain employees, mostly Faculty and Administrative and Professional (A&P) employees, with the ability to be compensated for accrued but unused annual and/or sick leave, mainly upon separation from the University, but also in other limited instances such as a Faculty member's change from a 12-month to a 9-month contract. This benefit is a State requirement and accrued to the eligible employees without regard to their funding source.

Prior to the adoption of the PAF, payouts of accrued annual and sick leave were direct-charged to the appropriate grant awards. It is our understanding that to better manage accrued leave obligations for those employees working on contracts and grants, the University Controller's Office adopted the PAF. The PAF was a varying percentage that was applied to a project's total monthly payroll charges.

We were informed that during the period when the PAF was charged, the University's Payroll Department was tasked with ensuring that all terminal leave payouts for employees supported by contracts and grants were to be charged to the University's PAF account as opposed to a specific contract or grant. The one exception to this rule was that the Payroll Department had no oversight for any terminal leave payouts posted to project accounts beginning with "51" (miscellaneous accounts) or "52" (overhead accounts).

Based on our review of the University's financial records, we believe the University discontinued paying terminal leave payouts out of the PAF account during the fiscal year ended June 30, 2004. Specifically, a review of the ledgers noted that terminal leave payouts ceased being posted to that account after December 2003. Subsequently, the University direct charged grants for terminal leave payouts.

The table below provides details of the PAF account during the period from 1999 to when the use of the PAF account was discontinued in FY 2003-2004:

Balance, June 30, 1999		($ 89,779)
July 1, 1999 – June 30, 2004:		
PAF Charges Collected from Federal & Non-Federal sponsored projects	($ 839,784)	
Paid out from PAF account	1,112,243	
Net paid out from PAF		272,459
Sub-total		182,680
Deficit Transferred out and absorbed by the University		(182,675)
Balance, June 30, 2004		$ 5

Our review of the use of the $1,112,243 paid out from the PAF account reflected that, although primarily used to pay leave payouts, the PAF account was also used to pay $363,364 of unemployment compensation insurance and $9,803 of Human Resources assessments by the State's former Board of Regents. In addition, we noted what appear to be certain data coding errors that resulted in $119,225 of unemployment compensation insurance that should have been charged the PAF but was actually charged to the University's Auxiliary fund. Had these charges been properly posted, the final PAF account deficit would have been $301,905.

METHODOLOGY

Our review was limited to responding to the specific inquiries of the DOE and the NSF Inspectors General as they pertained to sick and annual leave billings as detailed in their respective requests. Our review included, but was not limited to, interviews with current and former University personnel, determining the project accounts involved in the four grant awards, obtaining an understanding of the University's processes and procedures as they pertained to leave payouts, obtaining a listing of employees who were paid leave payouts, obtaining payroll distribution schedules for a payroll clearing account used, obtaining University financial records for each of the project accounts and of the PAF account, and testing of selected transactions during the period reviewed, as considered necessary under the circumstances. Our review did not examine any terminal leave payouts that may have been paid from other than the four grant awards under review.

Each of the four grant awards consisted of different project accounts and different project periods, as noted in the following table. The project periods guided the scope of our review, along with the discontinuation in 2003-2004 of the University paying leave payouts from the PAF account and assessing grant awards a Fee based on a percentage of gross payroll charges.

DE-FG26-00NT40806	November 21, 2000 through November 20, 2005
DE-FG02-99ER41065	February 1, 1999 through January 31, 2011
CNS-0123950	September 1, 2001 through August 31, 2007
PHY-0312038	September 1, 2003 through August 31, 2009

RESULTS OF REVIEW

1. PAF Charges

Our review of the PAF charges was conducted by examining the departmental ledger activity for each of the respective project accounts under each grant award from FY 1998-99 (the earliest fiscal year in which the four grants were active) through FY 2003-04 (the last fiscal year in which the University paid terminal leave payouts through the PAF account). We identified the following number of project accounts for the respective grant awards:

DE-FG26-00NT40806 – 12 project accounts
DE-FG02-99ER41065 – 4 project accounts
CNS-0123950 – 1 project account
PHY-0312038 – 4 project accounts

Based on our review of the departmental ledger activity, we found that PAF charges were applied to the DOE grants as follows:

Fiscal Years	DE-FG26-00NT40806	DE-FG02-99ER41065	Totals
1998-1999	$ 0	$ 18	$ 18
1999-2000	0	442	442
2000-2001	13,867	1,295	15,162
2001-2002	74,316	1,202	75,518
2002-2003	19,731	793	20,524
2003-2004	0	0	0
Total - PAF Charges	$ 107,914	$ 3,750	$ 111,664

PAF charges were not applied to the NSF awards.

2. Leave Payouts during PAF

Based on a listing of leave payouts since January 2000, for each of the respective project accounts, we found that only one grant award was directly charged for leave payouts in FY 2000-2001 and FY 2001-2002 respectively:

Grant Award Number DE-FG26-00NT40806	Amount
FY 2000-2001	$ 2,239
FY 2001-2002	31,542
Total	$ 33,781

Because we were unable to obtain leave payout records prior to January 2000, and grant award DE-FG02-99ER41065 originated in February 1999, it is uncertain if any leave payouts were made between February and December 1999. However, based on our review of the ledgers and faculty contracts in effect during the period, we believe that leave payouts, if any, during this period would not have exceeded $3,800.

The $33,781 direct-charged to the DE-FG26-00NT40806 grant award consisted of 15 employees, 14 of whom were charged to a payroll clearing account and were subsequently distributed to a project account under this award between October 2001 and May 2002, while one employee was direct-charged to a project account under this award in March 2001. All subsequent leave payouts examined were charged to the PAF account.

Since the payroll clearing account was coded as a “51” – or Miscellaneous - project account, the Payroll Department was not responsible for ensuring that leave payouts related to that account were charged to the PAF account. In the case of the payroll clearing account, it was HCET (the Hemispheric Center for Environmental Technology) management’s responsibility to distribute all payroll charges appropriately.

3. Leave Payouts after PAF

For each of the respective project accounts, we obtained a schedule of leave payouts that were made from after the use of the PAF account for terminal leave payments was discontinued through June 30, 2009. We found that one of the four grants reviewed, DOE Grant Award Number DE-FG26-00NT40806, had $53,425 in terminal leave payouts directly charged to it during FY 2003-2004, after the PAF period.

The $53,425 in terminal leave payouts were paid to six employees. In addition, for one other employee, it was unclear where their $1,338 terminal leave payout was charged in 2004-2005. The total salary charged by the University to the grant award for these seven employees during the PAF period was $562,636. Because the PAF was not necessarily charged to this award consistently over the course of the period examined, for purposes of this review, we applied the maximum PAF rate of 2% to the entirety of the $562,636 in payroll charges associated with the seven

employees to estimate that as much as $11,253 in PAF charges could be associated with these employees. (Please note that while the grant began in November 2000, payroll distributions prior to August 2001 were unavailable).

4. Fringe Benefit Pool

During our review, we noted that the University's practice was to direct-charge fringe benefits to project accounts based on actual costs on a cash basis. Other than the PAF, we did not find any instances in which fringe benefits were direct-charged to project accounts on an accrual basis. The fringe benefit rates used throughout the years were used solely for budgeting purposes and not to direct-charge the project accounts, which were charged for actual costs on a cash basis.

In order to obtain the fringe benefit rate components and their respective rates used throughout the years, we reviewed Office of Sponsored Research Administration (OSRA) newsletters and documentation from OSRA's 2001 website.

Although the fringe benefit rate for Other Personnel Services and overload for faculty was consistently 7.65%, the University used varying fringe benefit rates for regular faculty and staff during the years under review ranging from 27% to 31.5%, as noted below.

Fringe Benefit Components	1998-1999 (a)	1999-2000 (a)	2000-2001 (b)	2001-2004 (c)
FICA	7.65%	7.65%	7.65%	7.65%
Retirement	17.43%	10.15%	10.30%	10.30%
Health insurance	5.57%	7.92%	6.90%	6.90%
Life insurance matching	.20%	.25%	.25%	.25%
Sick and annual leave	.35%	1.03%	2.00%	2.00%
Worker's compensation	.10%		.20%	.20%
Unemployment insurance	.20%		.20%	.20%
Total	**31.50%**	**27.00%**	**27.50%**	**27.50%**

(a) Rates obtained from March and August 1999 OSRA newsletter, respectively.
(b) Rates obtained from May 2001 OSRA website previously documented.
(c) Rates obtained from December 2001 OSRA newsletter and conversation with OSRA staff noting no change in the 27.5% rate throughout period, although individual components may have differed.

5. Findings

With regard to the use of the PAF and the subsequent change in direct charging accrued leave, in our opinion, either method is acceptable under OMB Circular No. A-21. However, as a result of our review of PAF charges and leave payouts, we determined that the: (a) University directly charged one of the DOE awards $33,781

in leave payouts during a period in which the University was billing the DOE for the PAF; and (b) University direct-charged the same DOE grant award for all or part of seven employees' terminal leave payouts even though the salaries of those employees may have contributed to the PAF charges to that award. Excluding the 9 month period for which payroll information was unavailable, we estimate that the salary charges for these employees could have resulted in as much as $11,253 in PAF charges to the DOE award.

6. Sources of Information

During our review, we used different reports provided by or generated by various units. Below is a list of the reports and sources relied on during our review process:

- Reports prepared by an Administrative Software Unit staff member, noting payouts paid from the 21 project accounts and the payroll clearing account.
- Report prepared by an Administrative Software Unit staff member, noting payouts paid from the PAF account.
- Departmental ledgers for each project account and the PAF account printed from the Controller's Office query using CTL for SAMAS data from 7/1/2000 through 6/30/2004 and PeopleSoft data post 6/30/2004.
- Departmental ledgers for one project and the PAF account from the Controller's Office microfiche for 1999.
- NWRDC payroll histories for employees identified.
- HCET (ARC) payroll clearing account distributions CD, 8/01 – 6/04.
- HCET (ARC) payroll clearing account distributions, as needed, post-6/04.
- ADP Payroll terminations 7/07 – 8/09 from the project accounts.
- Report prepared by an Administrative Software Unit staff member, noting on-demand coded payments paid from the project accounts.

7. Individuals Assisting

Below is a list of individuals who provided information which assisted us in our review process:

- Joseph Barabino, current Associate Vice President – OSRA
- Claudia Benitez, current Assistant Director, Finance & HR – ARC
- Thomas Breslin, former Vice President for Research
- Gloria Dingeldein, current Associate Director, Finance & Grants – ARC
- Carlos Flores, current Director of Operations – HR
- Aileen Perez, current Coordinator, Payroll & Records – HR
- Aida Reus, current Associate Director, Post Award – OSRA
- Peter Taylor, current Associate Director – Administrative Computing

Conclusion

The University billed $33,781 in terminal leave payouts to one of the DOE grant awards at the same time that it applied the PAF to that award. After the University discontinued making terminal leave payouts out of the PAF account, it direct-charged the same DOE grant award for terminal leave payouts when the grant award may have already been previously billed an estimated $11,253 in PAF charges.

Recommendations:

We recommend that the University discuss with DOE the need to make a financial adjustment associated with the $33,781 in direct-charged terminal leave payouts during the PAF period. We further recommend that the University consider whether, after it discontinued the PAF, it was appropriate to direct charge the DOE award for terminal leave payouts associated with employees whose salaries may have contributed to the PAF charges on the DOE award, and whether a financial adjustment associated with the $11,253 would be necessary.

Management's Response:

The University concurs with the recommendation to discuss with DOE the need to make a financial adjustment related to the $33,781 of accrued leave charges that were posted directly to the DOE award during the period when the PAF was in effect.

With respect to the accrued leave charges to the same DOE award after the PAF was discontinued, the University does not believe that the $11,253 in estimated PAF charges associated with the seven employees requires a financial adjustment. We are attaching as part of our response, a PowerPoint presentation that the Department of Health and Human Services (DHHS) Division of Cost Allocation (DCA) presented at a 2007 college and university cost accounting conference. The guidance DCA provided at this presentation on the accounting challenges posed by accrued leave obligations is consistent with its own "Best Practices Manual for Reviewing College and University Long-Form Facilities & Administrative Cost Rate Proposals."

Among the options DCA presented was the creation of a termination leave reserve that would be funded by developing a charging rate similar to a recharge center rate. DCA further explained that such a university established internal rate would not have to be published in the institution's F&A rate agreement. In our view, the PAF is the kind of termination reserve that DCA was describing. As you know, when a university establishes a recharge center, its focus should be on setting and maintaining rates at a point at which the facility will essentially break even over time. Thus, if in one year, the facility achieves a surplus, that may indicate a need for a downward rate adjustment. Likewise, a deficit may indicate the need for an

upward rate adjustment. Thus, using the recharge center concept as a model, we do not believe the Government was overcharged by the change in methodologies because during the period under review, the PAF account ran a deficit and when the use of the PAF account was discontinued, the University absorbed that deficit rather than passing it on to the Government. Moreover, we submit that just as there may be instances when an employee whose salary contributed to the PAF charges to a grant also had a terminal leave payment direct-charged to that same grant, the converse may also have happened. For example, there could be an employee whose salary made little or no contribution to the PAF account yet also received a terminal leave payout from the PAF account. Because both options are possibilities, the University submits that viewing the PAF through the recharge center concept is reasonable.

Finally, the University feels it is important to note that all of the issues Internal Audit identified are related to the award that was the primary funding source for the organization that was formerly known as the Hemispheric Center for Environmental Technologies (HCET) and that it is now designated the Applied Research Center. The accounting challenges that organization faced during the years reviewed are well documented. The University is pleased to learn that none of the other three awards reviewed had any issues.

Attachment: PowerPoint presentation as part of Management's response

C: Mark B. Rosenberg, University President
Javier Marques, Chief of Staff, Office of the President
George Walker, Senior Vice President, Research & University Graduate School
Andres Gil, Vice President, Sponsored Research
Joseph Barabino, Associate Vice President, Office of Sponsored Research Administration

ATTACHMENT

PowerPoint presentation as part of Management’s Response

DCA Update

Division of Cost Allocation

DCA Operational Guidance

- Provided the DCA Best Practices Manual for Reviewing College and University Long-Form F&A Cost Rate Proposals on the DCA website
- Prepared an Alternate Space Methodology
- Developed a new rate methodology for the National Primate Research Centers

Top 5 Hot Issues in 2007

1) National Primate Research Centers: new rate methodology and its potential repercussions to other Federal core grant programs
2) Tuition Remission: rate agreement terminology, space classification and MTDC treatment
3) Federally Unapproved Stem Cell Research: Federal government concerns

Top 5 Hot Issues in 2007

4) Terminal Leave: How should it be treated?
5) Utility Metering: multiple meters in a building and the UCA

National Primate Research Center New Rate Methodology

- Purpose
  - Consistency in charging costs
  - Eliminate potential over-recovery of Federal funding
- Center Core Grant
  - Supports shared resources and facilities for categorical research on a joint research effort or on a common research problem.
  - Integrates with the center's program projects, but is funded independently from them.

What is unique about Core grant funding?

- Core grants may fund F&A type costs.
- Core grant funding benefits other Federal and non-Federal awards within that same center’s program.

NPRC Core Grants - Historically Handled

- Core Grant directly pays for a portion of the F&A type costs as well as direct research costs.
- University allocated F&A costs were charged through the "A" rate to the Core Grant and other program awards.
- The F&A type costs funded from the Core Grant were added to the unfunded program F&A costs and were charged through the "B" rate to Federal and non-Federal awards at the center. This recovery was classified as "program income" and was expected to be returned to the Core Grant or to the center's program.

Problems

- There was a lack of accountability as to how the “program income” was being treated. The Federal government was paying the same cost twice with no accountability of the use of the funds.
- It resulted in inconsistent costing.
- Confusion created multiple inconsistent methodologies.

Solution

- Developed a new rate methodology to be consistently applied by all centers.
- Creates “A” and “B” rates and an optional “C” rate.
- The “A” rate is similar to past. The “B” rate no longer allows the inclusion of F&A type costs funded from the Core Grant and applies to all non-Core Federal awards at the center.
- The “C” rate is fully loaded and applies to non-Federal awards. This rate is published at the option of the center.

What kinds of Core Grants need special treatment?

- All Core Grants that pay F&A type costs.

Possible Core Grant F&A Options

- If similar to the NPRC structure, consideration will be given to using the new A-B-C rate methodology.
- In some cases, it may be acceptable to treat the center as a recharge center but “program income” should be accounted for and returned to the Core Grant.
- If only some, but an insignificant amount of, F&A costs are paid by the Core Grant, a separate F&A rate for the Core Grant may be all that is necessary, subject to negotiation.

Tuition Remission

- The exclusion from the MTDC base in the published rate agreement refers to:

  STUDENT TUITION REMISSION

- The allowable tuition remission in the fringe benefit rate and listed in the Special Remarks section of the published rate agreement refers to:

  EMPLOYEE TUITION REMISSION

Tuition Remission

- For F&A purposes, if a student receives payment for tuition or any amount of tuition is waived, this is student tuition remission.
- F&A rates should not be applied to student tuition remission.
- Student tuition remission should be excluded from the MTDC base and the space for these students should be classified as IDR or OIA to the extent that the tuition remission supports their effort within a laboratory.

Federally Unapproved Stem Cell Research

- President's policy dated August 9, 2001:

No federal funds will be used for:

1) the derivation or use of stem cell lines derived from newly destroyed embryos;
2) the creation of any human embryos for research purposes; or
3) the cloning of human embryos for any purpose.

Federally Unapproved Stem Cell Research

- NIH Guidance:

  Each organization that receives federal funds on NIH grants and contracts must have in place adequate policies, procedures, and internal controls to provide reasonable assurance that federal funds are not used to support non-federally supported or unallowable costs.

Federally Unapproved Stem Cell Research

- Federal Concerns:
  - Federally funded buildings and space
  - Federally funded equipment
  - May be included in the MTDC base (or) excluded if the related F&A costs excluded
  - If included in MTDC base, does related F&A costs significantly raise the F&A rate?

Terminal Leave

- Defined as earned vested leave that is unused at the time of an employee's termination of employment
- Normally, it is not proper to charge a grant for this expense.

Terminal Leave treated as Severance Pay

- A-21, J10h(1):

  Severance pay is compensation in addition to regular salary and wages which is paid by an institution to employees whose services are being terminated.

- A-21, J10h(2):

  Severance payments…..may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

Terminal Leave Options

- Include all terminal leave in the fringe benefit cost rate
- If the institution does not have a fringe benefit cost rate, two options may be considered:
  - A terminal leave reserve may be established by developing a charging rate similar to a recharge center rate, or a self-insurance reserve. Upon termination of an employee, unused leave vested by the employee will be charged to the reserve account. This university developed internal rate will not be published on the rate agreement.
  - In some cases, a separate terminal leave rate may be approved and published on the rate agreement.

Utility Metering – Multiple Meters

- An institution may have multiple meters within a building, but for F&A rate purposes the total utility costs metered in a building should be allocated by total building square footage and not be divided into multiple units or allocated by a finer level than by building.
- This restriction applies to all colleges and universities, not just those that receive the UCA.

Utility Cost Adjustment (UCA)

- The UCA applies to the Organized Research rate only.
- No further authority on allowing a UCA to other schools or rates has been granted to DCA as of date.

DCA – Mission Statement

The Division of Cost Allocation (DCA) is committed to providing the highest level of indirect cost rate and cost allocation plan negotiation services to Federal Departments and Agencies where HHS is designated by OMB as the cognizant Federal Agency. We will be the Agency of choice for providing technical guidance and assistance regarding the development of indirect cost rates and cost allocation plans. Our professional staff will be recognized for their technical knowledge and professional expertise. Although the DCA represents the Federal Government during negotiations and has a fiduciary responsibility to protect the public funds, we will be fair, reasonable and equitable when communicating and negotiating with the grantee community.